

#### REMARKS/ARGUMENTS

The Examiner is thanked for the Office Action mailed November 15, 2007. The status of the application is as follows:

- Claims 14-40 are pending, and claims 14, 22 and 37 have been amended herein;
- Claims 14-22, 24, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Booty (5,558,430);
- Claims 23, 28-30, 32 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Booty;
- Claims 25, 31, 33, 34, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Booty in view of Case (5,921,657); and
- Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Booty in view of Blanchard (4,360,930).

The rejections are discussed below.

#### **The Rejection of Claims 14-22, 24, 26 and 27 under 35 U.S.C. 102(b)**

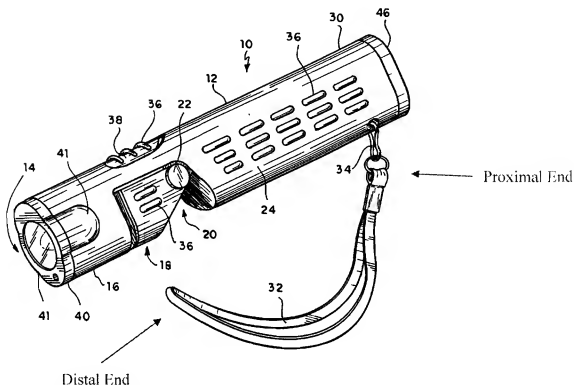
Claims 14-22, 24, 26 and 27 stand rejected under 35 U.S.C. 102(b) as being anticipated by Booty. This rejection should be withdrawn because Booty does not teach each and every element as set forth in the subject claims and, therefore, does not anticipate claims 14-22, 24, 26 and 27.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). MPEP §2131.

Amended independent **claim 14** is directed towards a lighting device that includes, *inter alia*, a lanyard attached to the housing characterized by the lanyard having a proximal end attached to the housing and a distal end, the distal end releasably attached to the housing, wherein the proximal end remains attached to the housing when detaching the releasably attached distal end from the housing. Booty does not teach or suggest such claim aspects.

More particularly, Booty relates to a flashlight 10 having a longitudinal body 12. As disclosed in Booty, a fixed primary headlamp 14 is located at a front end 16 of the body 12, and

a detachable wrist strap cord 32 is attached to the body 12 via a clip 34 at a rear end 30 of the body 12. As shown below in a reproduction of Fig. 1 of Booty, a proximal end of the cord 32 is attached to the body 12, whereas a distal end of the cord 32 does not attach to the body 12, but instead, free floats.



As noted above, the lanyard of claim 1 includes a proximal end that is attached to the housing and a distal end that is releasably attached to the housing, and the proximal end remains attached to the housing when detaching the releasably attached distal end from the housing. In contrast, only the proximal end of the cord 32 of Booty attaches to the body 12. As such, Booty cannot teach or suggest that the proximal end remains attached to the body 12 (via the clip 34) when the distal end is detached from the body 12. Accordingly, this rejection should be withdrawn.

**Claim 19**, which indirectly depends from claim 14, recites that the distal end includes a hook to engage the aperture. The Office asserts that the hook 34 of Booty teaches this claim aspect. However, the hook 34 is connected to the proximal end of the cord 32, and not the distal end of the cord 32. As shown in Fig. 1 above, the distal end of the cord 32 of Booty does not

include a hook. Hence, Booty does not teach or suggest this claim aspect. Therefore, this rejection of claim 19 should be withdrawn.

Amended **claim 22**, which indirectly depends from claim 14, recites that the distal end of the lanyard is attached to the housing at or near the end. As discussed *supra*, the distal end of the cord 32 of Booty free floats, and does not releasably attach to the housing, let alone attach at or near the end of the housing. Thus, this rejection should be withdrawn.

**Claims 15-18, 20, 21, 24, 26, and 27** depend from independent claim 14 and are allowable at least by virtue of their dependencies.

**The Rejection of Claims 23, 28-30, 32 and 35-37 under 35 U.S.C. 103(a)**

Claims 23, 28-30, 32 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Booty. This rejection should be withdrawn because Booty does not teach or suggest all the limitations of the subject claims and, therefore, does not establish a *prima facie* case of obvious with respect to the subject claims.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, (CCPA 1974). MPEP §2143.03.

Independent **claim 28** recites aspects similar to those of claim 14. As such, the discussion of claim 14 applies *mutatis mutandis* to claim 28. In particular, claim 28 requires that a lanyard have a proximal end attached to the housing and a distal end releasably attached to the housing. From above, in Booty the proximal end of the cord 32 attaches to the body 12 and the distal end of the cord 32 free floats. Accordingly, withdrawal of this rejection is requested.

Independent **claim 37** includes a lanyard having a proximal end attached to the housing and a distal end that releasably attaches to the housing, independent of the proximal end, by a member of the housing. First, the distal end of the cord 32 of Booty does not releasably attach to the body 12. Instead, the proximal end of the cord 32 attaches to the body 12 and the distal end of the cord 32 free floats. Next, the body 12 of Booty does not include a member through which the distal end of the cord 32 attaches to the body 12. The Office asserts that element 34 teaches the claimed member. However, the proximal end of the cord 32, and not the distal end of the

cord 32, attaches to the housing through the element 34. In light of the above, the rejection of claim 37 should be withdrawn.

**Claims 23, 29-30, 32, and 35-36** depend from independent claims 14 and 28 and are allowable at least by virtue of their dependencies.

**The Rejection of Claims 25, 31, 33, 34, 39 and 40 under 35 U.S.C. 103(a)**

Claims 25, 31, 33, 34, 39, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Booty in view of Case. **Claims 25, 31, 33, 34, 39, and 40** depend from independent claims 14, 28 or 37 and are allowable at least by virtue of their dependencies.

**The Rejection of Claim 38 under 35 U.S.C. 103(a)**

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Booty in view of Blanchard. **Claim 38** depends from independent claim 37 and is allowable at least by virtue of its dependency.

**Conclusion**

In view of the foregoing, it is submitted that the claims distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,



Anthony M. Del Zoppo, III (Reg. No. 51,606  
Driggs, Hogg, Daugherty & Del Zoppo Co., L.P.A.  
38500 Chardon Road  
Willoughby Hills, Ohio 44094  
Phone: 1.440.391.5100  
Fax: 1.440.391.5101

**Direct all correspondence to:**

Gregory J. Adams, Reg. No. 44,494  
Eveready Battery Company, Inc.  
25225 Detroit Road  
Westlake, Ohio 44145  
Phone: 440.835.8148  
Fax: 440.899.6072